TESTIMONY IN OPPOSITION RAISED BILL No. 409 - AN ACT CONCERNING THE ASSIGNMENT OF CERTAIN LIENS AND EXPANDING HOMEOWNER PROTECTIONS UNDER THE EMERGENCY MORTGAGE ASSISTANCE PROGRAM

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March 8, 2016

Good afternoon Senator Winfield, Representative Lesser, Senator Crisco, Representative Stallworth, Senator Martin, Representative Simanski and members of the Banking Committee. Thank you for the opportunity to provide testimony on behalf of Imagineers, LLC ("Imagineers").

I am Karl Kuegler, Jr. of Imagineers, LLC where I serve as the Director of Property Management for our common interest community management division. From our offices located in Hartford and Seymour, we serve about 210 Connecticut common interest communities comprising about 19,000 homes. Imagineers is registered with the Department of Consumer Protection as a Community Association Manager holding registration number 0001 and has been serving Connecticut common interest communities for 35 years. I have over 26 years of experience in common interest community management and hold a Certified Manager of Community Associations and Association Management Specialist designations from the National Board of Certification for Community Association Managers. Imagineers is a member of the Connecticut Chapter of Community Associations Institute. I serve on the organization's Legislative Action Committee as its vice chair and chair the organization's annual state educational conference.

Imagineers is strongly opposed to Raised Bill No. 409 - An Act Concerning the Assignment of Certain Liens and Expanding Homeowner Protections Under the Emergency Mortgage Assistance Program.

The collection of assessments is critically important to the solvency of common interest communities. The Common Interest Ownership Act provides the Connecticut Condominiums and Planned Communities with ability to collect the assessments due the association through a priority lien. The priority lien affords the association the ability to collect a minimum of 9 months' worth of assessments and court awarded costs in the event a unit is foreclosed and no assets remain after the other liens are satisfied. Changes enacted in the 2013 legislative session required additional notification requirements in the early stages of a foreclosure effort to not only require notification to the unit owner but also to the bank holding the mortgage on the unit. The changes came at a time that found associations faced with increased numbers of delinquent unit owners as a result of the faltering economy. Many associations are still feeling these economic effects.

Common Interest Communities depend on the assessments to cover the expenses incurred to maintain, operate and protect the homes within and the assets of the association. The changes being proposed would dramatically and negatively impact an association's ability to resolve the delinquency within a 9 month period. Every month that the unit remains delinquent past the 9 months equates to fees that the association is very unlikely to receive once the foreclosure is completed. Associations cannot survive carrying the costs of a unit owner for the proposed minimum of 24 months nor can it take the risk should the unit owner default and now the association has long since passed the 9 months' of delinquent fees.

The process of mediation will add additional costs to the collection effort. These costs will further add to the debt owed by the delinquent unit owner increasing the likelihood that the delinquent unit owner will be unable to overcome the challenge of paying their debt to the association and increasing the number of foreclosed homes. Adding insult to injury is the proposed limits to the legal fees that an association can recover. Instead of restricting the fees, associations need to demand that they would be

guaranteed that the courts would be obligated to not only meet the existing requirements to awarded reasonable court costs and attorney fees but also to include the additional costs incurred as a result of the mediation requirement. Even if this were the case, a petition for bankruptcy by the delinquent owner could potentially negate the association's ability to recoup the added costs due to the mediation requirement.

These associations, the vast majority which are residential homes, are comprised of owners bound together upon the purchase of their home. The associations operate on a break even basis. Assessments not collected from a delinquent association member leave the association with unfunded expenses that then needs to be shared by the members that are faithful in their payment of assessments. The debt from the increased time that units will remain delinquent and the increased in unfunded legal fees, will surely have a big financial impact on associations and will result in increased costs to all unit owners. This comes at a time when associations are already struggling with increased costs resulting in increased assessments and in some cases very large special assessments. Raised Bill 409 would in the end risk increasing the number of homes that will face collections and foreclosure.

It is also important to note that many of the states Common Interest Communities are small communities whose affairs are handled by homeowners within the community without the assistance of a community association manager. Each delinquent unit owner in a small community represents a much bigger percentage of the income stream of the association adding even a greater burden on the balance of the unit owners. These board members are already challenged by demands placed upon them by increased legislation and aging infrastructures.

Complications are created by the format and requirements for mediation. The associations are governed by a board of directors comprised of unit owners. These unit owners are volunteers that freely give of their time to serve the community in which they are members. The vast majority have jobs that reduce their availability to meet for mediation. Changes to the Common Interest Ownership Act approved in the 2009 legislative session added specific and new requirements for associations and their boards. The board needs to either vote on every decision to move forward with a foreclosure effort or have a collection policy in place that is then followed. How could a collection policy possibly contemplate and provide direction in considering facts presented in mediation. The statute also requires that decisions be reached by a board be made either in a properly called board meeting (requiring 5 days' notice to the owners and that allows owners to attend) or through a 2/3 consent in writing by the board. Not only would the board members face additional time requirements, they would also be faced with the challenge of determining how to properly consider and approved any decisions necessary in the mediation process.

Members of common interest communities have no control over who purchases a home within their association neither do they have control over personal financial decisions made by their fellow association members yet this proposed change would direct a greater portion of that owner's debt directly on the backs of their neighbors.

For the reasons stated above we are opposed to Raised Bill No. 409 - An Act Concerning the Assignment of Certain Liens and Expanding Homeowner Protections Under the Emergency Mortgage Assistance Program.